

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

NEASON MCCLAIN,

V.

Petitioner,

VICTORVILLE BOP FEDERAL
CORRECTIONAL INSTITUTE 1, et al.,

Respondents.

Case No. 2:23-cv-01081-GMN-BNW

ORDER

VICTORVILLE BOP FEDERAL
CORRECTIONAL INSTITUTE 1, et al.,

Respondents.

Pro se Petitioner Neason McClain, who is incarcerated in a federal correctional institute in California, filed a Petition for Writ of Habeas Corpus (ECF No. 2-1) under 28 U.S.C. § 2241. Because the Court lacks personal jurisdiction, the Court transfers this case to the Central District of California and closes this case.

I. Background

Petitioner pled guilty in federal district court to two counts of violations of 18 U.S.C. § 922(g)(1) and 924(a)(2). *See USA v. McClain*, Case No. 2:20-cr-00309-JAD-EJY. The district court imposed concurrent sentences of 32 months per count that were also concurrent to a Nevada state case. *Id.* at ECF No. 46.

Petitioner alleges that in July 2022, he was released to Clark County Detention Center for a case in state court. ECF No. 2-1 at 5. The state court sentenced Petitioner to probation and in September 2022, he was transferred back into federal custody. *Id.* In October 2022, Petitioner was transferred to federal custody located in California. *Id.* Petitioner asserts that his federal sentence ended on July 6, 2022. *Id.* at 6. He further asserts that a state court judge ruled that the time he spent in state custody would also be credited to his federal sentence. *Id.*

II. Discussion

Under Habeas Rule 4, the assigned judge must examine the habeas petition and order a response unless it “plainly appears” that the petitioner is not entitled to relief. *See Valdez v. Montgomery*, 918 F.3d 687, 693 (9th Cir. 2019). This rule requires courts to screen and dismiss

1 petitions that are patently frivolous, vague, conclusory, palpably incredible, false, or plagued by
 2 procedural defects. *Boyd v. Thompson*, 147 F.3d 1124, 1128 (9th Cir. 1998); *Hendricks v.*
 3 *Vasquez*, 908 F.2d 490, 491 (9th Cir. 1990) (collecting cases).

4 Federal courts are courts of limited jurisdiction. *Exxon Mobile Corp. v. Allapattah*
 5 *Servs., Inc.*, 545 U.S. 546, 552 (2005). “Federal courts have authority to grant writs of habeas
 6 corpus ‘within their respective jurisdictions.’” *Malone v. Calderon*, 165 F.3d 1234, 1237 (9th
 7 Cir. 1999) (quoting 28 U.S.C. § 2241); *Gouveia v. Espinda*, 926 F.3d 1102, 1108 (9th Cir. 2019).
 8 The law is well-established that jurisdiction over a federal habeas petition challenging present
 9 physical confinement exists only within the federal district where the petitioner is confined. *See,*
 10 *e.g.*, *Rumsfeld v. Padilla*, 542 U.S. 443-47 (2004). Petitioner is not in custody in this district, and
 11 this Court accordingly lacks jurisdiction over the petition for habeas relief.

12 If a petitioner files a habeas petition with a district court that lacks jurisdiction, that court
 13 may transfer the petition to another district court with jurisdiction, “if it is in the interest of
 14 justice.” 28 U.S.C. § 1631. Transfer, instead of dismissal, will be in the interest of justice
 15 “because dismissal of an action that could be brought elsewhere is “time consuming and justice
 16 defeating.” *Miller v. Hambrick*, 905 F.2d 259, 262 (9th Cir. 1990). Because the petition could
 17 have been filed in the Central District of California, the Court transfers this habeas action there
 18 in the interests of justice.¹

19 **IT IS THEREFORE ORDERED:**

20 1. Petitioner Neason McClain’s Petition for Writ of Habeas Corpus under § 2241 (ECF
 21 No. 2-1) is TRANSFERRED to the United States District Court for the Central
 22 District of California.

23 2. The Clerk of the Court is directed to CLOSE THIS CASE.

24 DATED: **August 9, 2023**

25 
 26 GLORIA M. NAVARRO
 27 UNITED STATES DISTRICT JUDGE

28 ¹ The Court defers screening under Habeas Rule 4 to the transferee court.